IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH NOVEMBER 2006 / 3RD AGRAHAYANA 1928

Crl.MC.No. 3875 of 2006()

CC.890/2002 of JUDL. MAGISTRATE OF FIRST CLASS COURT-III, TRIVANDRUM

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PETITIONER: ACCUSED

SUBAIR BUHAREE,
S/O.SUBAIR, BUHARI MANZIL,
NEAR SCHOOL THEKKUMBHAGOM,
KOLLAM.

BY ADV. SRI.B.S.SWATHY KUMAR

RESPONDENTS:

STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3875 OF 2006

Dated this the 24th day of November, 2006

ORDER

The petitioner is an accused in a prosecution under Sec.394 of the IPC. The case has been charge sheeted. The petitioner has not appeared before the learned Magistrate. after cognizance was taken, though it is said that he was enlarged on bail earlier at the stage of investigation. Non-bailable warrants have been issued by the learned Magistrate. Steps under Secs.82 and 83 of the Cr.P.C. have been initiated. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the

circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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//true copy// **P.S. To Judge**